

Robert I. Bodian (*pro hac vice* application pending)
Scott A. Rader (*pro hac vice* application pending)
Amanda B. Asaro (*pro hac vice* application pending)
Kerime S. Akoglu (*pro hac vice* application pending)
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- and -

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Counsel for Defendants

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re)	Chapter 11
)	
TOYS "R" US, INC., <i>et al.</i> , ¹)	Case No. 17-34665 (KLP)
)	
Debtors.)	(Jointly Administered)
)	
TRU CREDITOR LITIGATION TRUST,)	
)	
Plaintiff,)	Adv. Proceeding No. 20-03038-KLP
)	
v.)	
)	
DAVID A BRANDON, <i>et al.</i> ,)	
)	
Defendants.)	
)	

DEFENDANTS' MOTION TO DISMISS COMPLAINT PURSUANT TO FRCP 12(B)(6)

¹ The Debtors in these Chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are set forth in the *Order (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief* [Docket No. 78]. The location of Debtors' service address is One Geoffrey Way, Wayne, NJ 07470.

David A. Brandon, Joshua Bekenstein, Matthew S. Levin, Paul E. Raether, Nathaniel H. Taylor, Joseph Macnow, Wendy A. Silverstein, Richard Goodman, Michael Short, and Richard Barry (collectively, the “Defendants”) move to dismiss with prejudice the complaint (“Complaint”) and each cause of action filed herein by Plaintiff TRU Creditor Litigation Trust (“TRU”) for failure to state a cause of action upon which relief may be granted, pursuant to Rule 12(b)(6).

Background

1. Plaintiff TRU Creditor Litigation Trust (“TRU”) filed its Complaint in the Supreme Court of the State of New York, County of New York. The matter was removed to the U.S. District Court for the Southern District of New York, transferred upon Defendants’ motion to the U.S. District Court for the Eastern District of Virginia (the “District Court”), and referred by the District Court to the Bankruptcy Court.

2. Every cause of action in the Complaint fails to state a claim upon which relief can be granted, as set forth in detail in the accompanying Memorandum of Law.

WHEREFORE, for the reasons set forth in the accompanying Memorandum of Law, Defendants respectfully request that the Court dismiss with prejudice all causes of action in the Complaint.

**DAVID A. BRANDON;
JOSHUA BEKENSTEIN;
MATTHEW S. LEVIN;
PAUL E. RAETHER;
NATHANIEL H. TAYLOR;
JOSEPH MACNOW;
WENDY A. SILVERSTEIN;
RICHARD GOODMAN;
MICHAEL SHORT; and
RICHARD BARRY**

Dated: May 21, 2020
Richmond, Virginia

By: /s/ J. Brandon Sieg
Counsel

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